

(19)

Sigismond Sty-
dolph, Esq; } Appellant.
Susanna Langborne,
Tho. Hull and
Penelope his--- Respondents.
Wife, and John
Garrett.

The CASE of the Respondent *Susanna*
Langborne Widow.

THE Appellant brought his Bill in Chancery against *William* and *Mary* the Children of *Tho. Bostock* Scriveners, and his Executors in Trust for them, demanding an Account of certain Rents and Profits of the Estate of the Appellants Father, pretended to be received by the Scriveners, and in that Cause such Account was Decreed.

1678.
The Appellants demand, and his first Bill against the Executors of the Scrivener.

William Bostock the Scriveners Son, and his Administrator with his Will annexed, did by Will give his Estate Real and Personal to his Cousin *Tho. Bostock, Gent.* whom he made his Executor.

The Will of *William Bostock* the Scrivener and Administrator with his Will annexed.

By the Will of *Tho. Bostock, Gent.* his Estate real and Personal after payment of 200 l. per Ann. to his Wife, now the Respondent *Mrs. Hull* was subjected to the payment of his Debts, and he dyed leaving his Widow and one *Raworth* his Executors, and the Respondent *Langborne* his Sister and Heir at Law.

1684 Oct. 30.
The Will of *Thomas Bostock, Gent.* the Executor of *William*.

Another Bill was brought in Chancery against the Respondent, by the Appellant, to have Satisfaction of what was due to him upon the Account abovementioned out of the Estate of *Tho. Bostock, Gent.*

1687 Michaelmas Term.
The Appellants second Bill against the Respondents.

This Cause (in which the Appeal is now made) came to be heard before the Lord Chancellor *Jefferyes*, who declared that all the Estate both personal and real of *Tho. Bostock, Gent.* was subject to the payment of the Appellants Demand, and Decreed an Account to be taken accordingly, and the real Estate to be Sold, and the overplus after Satisfaction of the Appellants Debt, to be paid to the Respondent *Langborne* and her then Husband.

1688 July 20.
The first Hearing.

The Cause was Reheard on the Petition of the Respondent *Langborne* and her then Husband, before the then Commissioners of the Great Seal, who declared that the real Estate of *Bostock, Gent.* ought not to be lyable to any more than what his Personal Estate would fall short to Answer, what was wasted by him of the Estate of *Bostock* the Scrivener; And Decreed the said *Leigh* to account for the Personal Estate of the Scrivener, by him received, And the Respondents *Hull* and his Wife to account for what had come to their hands of the Personal Estates of all the said *Bostocks*.

1690 March 2.
The Re-hearing.

By the Report of the Master, to whom the taking of the Accounts was referred, the Personal Estate of the Scrivener come to the hands of the said *Leigh* was certified to amount to 3821 l. And the Appellants Debt was stated at 2537 l. 11 s. 9 d. besides his Costs, to satisfy which there was sufficient in *Leigh's* hands, with an overplus of 1283 l. 8 s. and 3 d. and the said Report was confirmed.

1691 Dec. 4.
The Masters Report of the Personal Estate of the Scrivener in the hands of *Leigh*.

Upon

1692 Feb. 3.
The Appellants first Appeal
to the Lords in Parliament.

Upon hearing Counsel upon the Petition, and Appeal of the now Appellant, and the Answers of the Respondent *Langhorne* and her late Husband, and of the said *Leigh*, it was Ordered and Adjudged by the House of Peers, That part of the said Decree, of the second of *March* 1690, and the subsequent Orders thereon, which did hinder the Appellant from resorting to the real Estate of *Tho. Bostock* for his satisfaction, should be and were thereby Reversed.

1693 July 5.
Order that *Langhorne* pay
the Appellants Debt, or in default thereof the real Estate to be sold, and liberty to *Langhorne* to prosecute for the Personal Estate.

It was by the then Lord Keeper *Sommers* Ordered, That the Respondent *Langhorne* and her late Husband should by *Michaelmas* then next, pay to the Appellant the Money then due to him, or in default thereof, that the real Estate should be Sold, and the Money arising by such Sale to be applied towards satisfaction of the Appellants Demands in the first place, And upon Security given by the said *Langhorne* (and which was accordingly given) to indemnify the Appellant against the Costs and Damages in Prosecuting for the discovery of the Personal Estate, in whose hands soever the same was—*Langhorne* was to Prosecute for the same.

The Money due to the Appellant was not paid to him by the time appointed, by the last mentioned Order.

1693 Jan. 25.
Woodroffe allowed Purchaser
of the real Estate.

It was certified by the Master, that he had allowed *Geo. Woodroffe* to be Purchaser, at the rate of 2500 l. of the real Estate of *Bostock*, Gent. subject to the Annuity of 200 l. per An. to Mrs. *Hull*; and by an Order of the 6th. of Feb. following *Woodroffe* was confirmed the Purchaser.

1693 March 11 & 12.
Conveyance to Woodroffe and
Bedingfield in Trust for Leigh
and the Mortgage to Garrett.

By Leases and Releases then dated, and a Fine levied, pursuant thereto, the same Estate was conveyed to the said *Woodroffe* and Sir *Robert Bedingfield* and their Heirs, and the said 2500 l. the Purchase Money was paid to *Sydolph*, and for securing 1000 l. with Interest to the Respondent *Garrett* and his Wife, the Premises so purchased were Mortgaged to their Trustees, by a Deed dated the 22 d. of November 1694, made by the said *Leigh*, and by the said *Woodroffe* and *Bedingfield*, who after payment of the said Mortgage Money, are to stand seized in Trust for *Leigh* and his Heirs.

1694 May 19.
The Personal Estate in Leigh's
hands to be paid to Langhorne.

It was Ordered that the 3821 l. in the hands of *Leigh* should be paid to the Respondent *Langhorne* and her Husband, and for non payment thereof, *Leigh* was prosecuted to a Commitment.

1696 March 4.
Leigh's Appeal to the Lords in
Parliament, and the Sequestration
on against him.

Leigh brought his Appeal in the House of Peers, from the said Decree of the 2 d. of *March* 1690, and the subsequent Orders thereto, and on the 23 d. of *March* 1698, that Appeal was dismissed, as being brought for delay, which appeared by *Leigh's* not proceeding thereon. And afterwards *Leigh* petitioned that his Appeal might be retained and heard, but upon the 24th. of *April* 1699. It was Ordered by the House of Lords that the same Petition should be dismissed, and the Cause not to be heard, and afterwards a Sequestration was Awarded against the Estate of the said *Leigh*, and thereupon several proceedings were had against the said Estate purchased in Trust for him, and Mortgaged to *Garrett* as aforesaid, and the Tenants thereof.

1698 Feb. 7.
The Personal Estate in the
hands of Hull and his Wife.

It was certified by the Master on hearing of *Hull* and *Langhorne* that of the Estate of *Bostock*, Gent. there was in the hands of the said Mr. *Hull* and his Wife 810 l. 6 s. 4 d.

1699 Jan. 23.

It was Ordered that the stopping of Mrs. *Hull's* Annuity should be discharged unless Cause.

1699 Feb. 1.
The Sale of the Appellants
Debt to Leigh discovered.
Ordered that the Master examine
into Mr. *Garrett's* Mortgage,
and what was paid by Leigh to
Sydolph for his Debt.

Upon shewing of Cause before the late Lord Chancellor *Sommers* against the last mentioned Order by *Langhorne* and his Wife, and the said Mr. *Garrett*, It was discovered that *Leigh* had bought the Appellant *Sydolph's* Debt, and it was ordered (among other things) that the Master should look

look into the said *Garrett's* Mortgage, and state the whole matter of Fact and how it stood, and *Garrett* and all other Persons concerned in Interest were to produce before the Master upon Oath, the Deeds and Writings that they had or could come by relating to the matters in question, and the Master was to examine and certify what *Leigh* paid to *Srydolph* on buying his Debt and Interest therein.

Upon hearing the said *Garrett*, and *Langhorne*, and *Hull*, none appearing for *Leigh* or *Srydolph*, though they had been personally served with a Writ of Execution of the last mentioned Order, and several Warrants from the Master; he certified (amongst other things) that the said *Garrett* had produced before him the Deeds and Fine whereby the real Estate sold as aforesaid, was purchased in Trust for *Leigh*, with the Appellants Receipt for the Purchase Money and the said Mortgage to *Garrett*.

1700 July 17.
The Deeds to Woodroffe and Bedingfield in Trust for *Leigh* and *Garrett's* Mortgage, produced before the Master by *Garrett*.

The matters in the Masters Report of the 7th of February 1698, and 17 July 1700, coming to be heard before the late Lord Keeper *Wright*, the Report of the 17th of February 1698, as to the 810 l. 6 s. 4 d. of the Estate of *Bostock*, Gent. in the hands of *Hull* and his Wife, was confirmed, and they were Decreed to pay the same unto *Langhorne* and his Wife out of the then Arrears of Mrs. *Hull's* Annuity, and the precedent Orders for stopping of the said Annuity were discharged, and *Hull* and his Wife were to be let in to receive the same Annuity for the future, the same being a Charge upon the Estate precedent to *Garrett's* Mortgage.

1700 Dec. 12.
The Personal Estate in the hands of *Hull* and his Wife, Decreed to be paid to *Langhorne*.

The Appellant *Srydolph* obtained an Order for a Rehearing, as to the Order last above mentioned, upon a Petition suggesting that part of his Demands was not paid, and that before the satisfaction thereof it was contradictory to the Decree made on the first Hearing of this Cause, and the said Order of the 5th of July 1693, to Decree the said 810 l. 6 s. 4 d. in the hands of *Hull* and his Wife to be paid to the said *Langhorne* and his Wife.

1702 June 6.
The Appellants Petition for a Re-hearing as to the last Decree

It was upon Hearing of *Langhorne* and the Appellant *Srydolph*, Ordered that *Srydolph* before the Cause should come on to be Re-heard upon his Petition, should be examined upon Interrogatories to be settled by a Master touching what the said *Leigh* paid to *Srydolph* on the Assignment of his Debt to *Leigh*. And before any further proceeding thereupon, the Respondent *Langhorne's* Husband Died, leaving her in a very poor condition, so that she was not able to prosecute the matter any further.

1703 Oct. 11.
Order to examine the Appellant touching what he received upon his Assignment of his Debt to *Leigh*.

Note, This Appeal is now brought in the Name of *Srydolph* by the said *Leigh*, as this Respondent hath just reason to believe, for that *Srydolph* hath never stirred in the Cause from the time that he received the whole value of the real Estate of *Tho. Bostock*, Gent. untill the time of his said Petition for Re-hearing, being above 9 Years. And also, for that *Leigh* is not made a Respondent to this Appeal, and there is as much reason that he should be a Party thereto as that *Hull* and his Wife should be Respondents. And though this Appeal is mentioned to be made from four Interlocutory Orders, a Decree, and a Report, yet it is humbly conceived that the end of this Appeal is only to prevent *Srydolph* from being examined touching what was paid to him for his Debt when the same was sold to *Leigh*, in which it is hoped neither of them shall prevail, nor in Reversing the said Decree of the 12th of December 1700.

For (1.) as to the Order whereby *Srydolph* is to be examined touching what was paid to him for his Debt by *Leigh*, the same was made in pursuance of the Order of the 1st of February 1699, and both were grounded upon very good reason, for that if upon such Examinations it shall appear that *Srydolph* hath made over his Debt to *Leigh*, so that *Leigh* doth stand in the place of *Srydolph*, then by the Masters Report of the 4th of December 1691, (which is confirmed and never hath been altered by any proceeding

Reasons for dismissing this Appeal.
As for the Order for examining *Srydolph* what he received for his Debt from *Leigh*.

ceding in the Cause) it appears that *Sydolp's* demand is satisfied by the Personal Estate of the *Respondent*, in the hands of *Leigh* with an over plus of 1285*l.* 8*s.* 8*d.*

As to the Decree of the 12th of Dec. 1700.

(2.) As to the Decree of 12 December 1700, whereby the Personal Estate of *Bosstock*, Gent. in the hands of *Hull* and his Wife, is Decreed to be paid to *Langhorne*, the same is agreeable with the said Order of the 10th of May 1694, whereby the Personal Estate of the said *Bosstock*, Gent. in the hands of *Leigh* is Ordered to be paid to *Langhorne*, and from which Order *Leigh* did Appeal to the Lords in Parliament, and did not prevail. And both the same Order and Decree were grounded upon very good reason, for that by the Order of the Lords in Parliament upon the Appellants former Appeal only so much of the Decree of the 2d of March 1690, as did hinder the Appellant from resorting to the real Estate of *Bosstock*, Gent. for his satisfaction was revers'd. The benefit of which Reversal the Appellant hath had by receiving the value of all the same real Estate upon the Sale thereof, and it is highly reasonable that the Respondent *Langhorne*, who is Heir at Law of the said *Bosstock*, Gent. should out of his Personal Estate be reimbursed what hath been taken from her of his real Estate, especially since the Appellant hath not hitherto made it appear what of the *Stribners* Estate was wasted by *Bosstock*, Gent. pursuant to the Decree of the 2d of March 1690, which as to that matter was not reversed.

And therefore the Respondent *Langhorne* doth humbly insist, and pray, that the Appellants Petition and Appeal may be dismissed as against her, with Costs.

THO. POWYS.
P. CRAWFORD.

Sydolph Appellant against
Langborne and others
Respondents.

The Respondent Mrs. *Lang-*
borne's Cafe.

To be heard upon the
23d. of Feb. 1705